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AMENDED IN SENATE JUNE 13, 2006

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AMENDED IN ASSEMBLY APRIL 5, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 36

**Introduced by Assembly Member Strickland
(Principal coauthor: Assembly Member Chu)**

December 6, 2004

An act to amend Sections 11831.5, 11834.01, 11834.02, 11834.09, 11834.10, 11834.15, 11834.17, 11834.18, 11834.20, 11834.21, 11834.22, 11834.23, 11834.24, 11834.25, 11834.26, 11834.30, 11834.31, 11834.32, 11834.36, and 11834.50 of, to add Sections 11834.04 and 11834.11 to, and to repeal and add Section 11834.16 of, the Health and Safety Code, relating to substance abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 36, as amended, Strickland. Substance abuse: adult recovery maintenance facilities.

Existing law provides for the licensure, certification, and regulation of alcoholism or drug abuse recovery or treatment facilities serving adults, administered by the State Department of Alcohol and Drug Programs. Existing law requires the department to grant certification to any alcoholism or drug abuse recovery or treatment program wishing to receive, and requesting, the certification. Existing law prohibits the department from levying a fee for certification of

nonprofit organizations or local governmental entities under these provisions.

This bill would require the department to also administer the licensure, certification, and regulation of adult recovery maintenance facilities, as defined. This bill would delete the prohibition against levying fees for certification of nonprofit organizations or local governmental entities.

Existing law requires the department to calculate and establish a fee for initial licensure, and for extension of the period of licensure, of an alcoholism or drug abuse recovery or treatment facility. Existing law also prohibits fees from being levied for licensure of nonprofit organizations or local government entities.

This bill would eliminate the prohibition against levying licensing fees for licensure of nonprofit organizations or local government entities, with respect to fees for licensure of an alcoholism or drug abuse recovery or treatment facility or an adult recovery maintenance facility.

This bill would establish the Residential and Outpatient Programs Compliance Branch Licensing and Certification Trust Fund in the State Treasury. The bill would require the trust fund, upon appropriation by the Legislature, to be used exclusively to cover administrative costs of the licensing and certification process established by the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11831.5 of the Health and Safety Code
- 2 is amended to read:
- 3 11831.5. (a) Certification shall be granted by the department
- 4 pursuant to this section to any alcoholism or drug abuse recovery
- 5 or treatment program wishing to receive, and requesting, the
- 6 certification regardless of the source of the program's funding.
- 7 (b) The purposes of certification under this section shall be all
- 8 of the following:
- 9 (1) To identify programs that exceed minimal levels of service
- 10 quality, are in substantial compliance with the department's
- 11 standards, and merit the confidence of the public, third-party
- 12 payers, and county alcohol and drug programs.

1 (2) To encourage programs to meet their stated goals and
2 objectives.

3 (3) To encourage programs to strive for increased quality of
4 service through recognition by the state and by peer programs in
5 the alcoholism and drug field.

6 (4) To assist programs to identify their needs for technical
7 assistance, training, and program improvements.

8 (c) Certification may be granted under this section on the basis
9 of evidence satisfactory to the department that the requesting
10 alcoholism or drug abuse recovery or treatment program has an
11 accreditation by a statewide or national alcohol or drug program
12 accrediting body. The accrediting body shall provide
13 accreditation that meets or exceeds the department's standards
14 and is recognized by the department.

15 (d) Certification, or the lack thereof, shall not convey any
16 approval or disapproval by the department, but shall be for
17 information purposes only.

18 (e) The standards developed pursuant to Section 11830 and the
19 certification under this section shall satisfy the requirements of
20 Section 1463.16 of the Penal Code.

21 (f) The department and the State Department of Social
22 Services shall enter into an interagency agreement to establish a
23 process by which the Department of Alcohol and Drug Programs
24 can certify residential facilities or programs serving primarily
25 adolescents, as defined in paragraph (1) of subdivision (a) of
26 Section 1502, and providing alcoholism and drug recovery or
27 treatment services.

28 SEC. 2. Section 11834.01 of the Health and Safety Code is
29 amended to read:

30 11834.01. (a) The department has the sole authority in state
31 government to license adult alcoholism or drug abuse recovery or
32 treatment facilities and adult recovery maintenance facilities.

33 (b) In administering this chapter, the department shall issue
34 new licenses for a period of two years to those programs that
35 meet the criteria for licensure set forth in Section 11834.03, and
36 the criteria for certification set forth in Chapter 7 (commencing
37 with Section 11830).

38 (c) Onsite program visits for compliance shall be conducted at
39 least once during each licensure or certification period. However,
40 the department may waive an onsite program visit for compliance

1 no more than once every other licensure or certification period if
2 the provider has demonstrated satisfactory compliance as
3 determined by regulation.

4 (d) The department may conduct announced or unannounced
5 site visits to facilities licensed pursuant to this chapter for the
6 purpose of reviewing for compliance with all applicable statutes
7 and regulations.

8 (e) Except where otherwise directly stated or necessarily
9 implied, all provisions of this chapter shall apply to adult
10 alcoholism or drug abuse recovery *or* treatment facilities and to
11 adult recovery maintenance facilities.

12 (f) On or before July 1, ~~2006~~ 2007, the department, in
13 consultation with providers of alcohol and other drug recovery,
14 treatment, detoxification, and adult recovery maintenance
15 services, county alcohol and drug program administrators, local
16 government jurisdictions, funding and referral organizations and
17 agencies, and appropriate state agencies, shall develop and adopt
18 emergency regulations governing the licensing and operation of
19 adult recovery maintenance facilities.

20 SEC. 3. Section 11834.02 of the Health and Safety Code is
21 amended to read:

22 11834.02. (a) As used in this chapter, the following terms
23 have the following meanings:

24 (1) "Alcoholism or drug abuse recovery or treatment facility"
25 means any premises, place, or building that provides 24-hour
26 residential nonmedical services to adults who are recovering
27 from problems related to alcohol, drug, or alcohol and drug
28 misuse or abuse, and who receive alcohol, drug, or alcohol and
29 drug recovery treatment or detoxification services.

30 (2) "Adult recovery maintenance facility" means any facility,
31 place, or building that provides alcohol- or drug-free housing
32 whose rules, peer-led groups, staff activities, or other structured
33 operations are directed toward maintenance of sobriety for adults
34 in early recovery from substance abuse or who recently have
35 completed alcoholism or drug abuse recovery or treatment
36 services. This facility is designed to promote independent living
37 in a supervised setting, but does not provide professional
38 recovery and treatment services onsite. The facility may require
39 that adults receive offsite certified alcoholism or other drug

1 treatment services. The facility is otherwise authorized to receive
2 public funds for individual residents.

3 (3) “Adults” may include, but are not limited to, the following:

4 (A) Persons 18 years of age or older and their minor children.

5 (B) Emancipated minors, which may include, but are not
6 limited to, persons under 18 years of age and their minor
7 children.

8 (4) “Emancipated minors” means persons under 18 years of
9 age who have acquired emancipation status pursuant to Section
10 7002 of the Family Code.

11 (b) Notwithstanding paragraph (1) of subdivision (a), an
12 alcoholism or drug abuse recovery or treatment facility may
13 serve adolescents upon the issuance of a waiver granted by the
14 department pursuant to regulations adopted under subdivision (c)
15 of Section 11834.50.

16 SEC. 4. Section 11834.04 is added to the Health and Safety
17 Code, to read:

18 11834.04. (a) Sober living homes are exempt from licensing.
19 However, to assure quality assurance of sober living homes, the
20 department may recognize sober living homes that have been
21 certified, registered, or approved by a recognized government or
22 nonprofit organization that provides a credible quality assurance
23 service.

24 (b) “Sober living homes” means homes that provide room or
25 board or both, and that require residents to abstain from using
26 alcohol or illicit drugs, but do not provide or require participation
27 in any recovery maintenance activities, do not require
28 supervision, do not receive public funds for individual residents,
29 and do not maintain case management files as a condition of
30 residency. However, residents may form or participate in
31 peer-led self-help groups within a sober living home.

32 SEC. 5. Section 11834.09 of the Health and Safety Code is
33 amended to read:

34 11834.09. (a) Upon receipt of a completed written
35 application for initial licensure or extension of licensure, fire
36 clearance, and applicable fee from the applicant, and subject to
37 the department’s review and determination that the applicant can
38 comply with this chapter and regulations adopted pursuant to this
39 chapter, the department may issue any of the following:

(1) A single license to the following types of alcoholism or drug abuse recovery or treatment facilities:

(A) A residential facility.

(B) A facility wherein separate buildings or portions of a residential facility are integral components of a single alcoholism or drug abuse recovery or treatment facility and all of the components of the facility are managed by the same provider.

(2) A single license to an adult recovery maintenance facility.

(3) A single certification to an outpatient program.

(b) The department shall commence the licensure of adult recovery maintenance facilities only after developing and adopting regulations for purposes of Section 11834.01. However, the licensing activity shall not commence later than January 1, ~~2007~~ 2008.

(c) Failure to submit a completed written application for initial licensure or extension of licensure, fire clearance, and payment of the required licensing or certification fee in a timely manner shall result in termination of the department's licensure or certification review and shall require submission of a new application by the applicant.

(d) Failure of the applicant to demonstrate the ability to comply with this chapter or the regulations adopted pursuant to this chapter shall result in departmental denial of the applicant's application for licensure or certification.

SEC. 6. Section 11834.10 of the Health and Safety Code is amended to read:

11834.10. A licensee shall not operate an alcoholism or drug abuse recovery or treatment facility or an adult recovery maintenance facility beyond the conditions and limitations specified on the license.

SEC. 7. Section 11834.11 is added to the Health and Safety Code, to read:

11834.11. On and after January 1, ~~2006~~ 2008, no state or local social services, law enforcement, corrections agency, court, probation officer, or parole officer shall refer any person to an alcoholism or drug abuse recovery or treatment facility or an adult recovery maintenance facility that is not licensed.

SEC. 8. Section 11834.15 of the Health and Safety Code is amended to read:

1 11834.15. (a) The department shall calculate and establish
2 the fee for initial licensure or certification and for extension of
3 the period of licensure or certification. The nonrefundable
4 licensing or certification fee shall be calculated every two years.

5 (1) The initial fee for licensure or certification shall equal the
6 department's cost of processing the application, performing the
7 onsite visit, conducting followup visits, and investigating
8 complaints.

9 (2) The extension fee for licensure or certification shall equal
10 the department's cost of processing the extension application,
11 performing compliance visits, and investigating complaints.

12 (b) The licensing and certification fees required pursuant to
13 this section may be imposed by the department as of January 1,
14 ~~2006~~ 2007, for all initial and extension applications.

15 (c) The department may assess civil penalties in accordance
16 with Sections 11834.31 and 11834.34.

17 (d) The department may charge a fee to cover the cost of a
18 followup visit to determine program compliance.

19 (e) On or before January 1, ~~2006~~ 2007, the department shall
20 adopt emergency regulations to implement the fee process for
21 initial licensure, extension of licensure, initial certification,
22 extension of certification, followup compliance visit, and civil
23 penalty.

24 (f) There is hereby established in the State Treasury a
25 Residential and Outpatient Programs Compliance Branch
26 Licensing and Certification Trust Fund. All initial licensure fees,
27 extension of licensure fees, initial certification fees, extension of
28 certification fees, followup compliance visit fees, and civil
29 penalty fees collected from the providers of licensing and
30 certification services shall be deposited into this fund.

31 (g) (1) Upon appropriation by the Legislature, the trust fund
32 shall be used exclusively to cover the administrative costs of the
33 licensing and certification process incurred by the department,
34 including staff salaries and benefits, related travel costs, and state
35 operational and administrative costs.

36 (2) A reserve equal to 10 percent of the total initial licensure
37 fees, extension of licensure fees, initial certification fees,
38 extension of certification fees, followup compliance visit fees,
39 and civil penalty fees collected during the preceding fiscal year
40 may be held in each trust account to reimburse the department if

1 the actual cost for the licensure, certification, inspection, and
2 investigation ~~exceed~~ *exceeds* fees collected during a fiscal year.

3 (3) Except as otherwise provided in this section, if funds
4 remain in the trust fund after appropriation by the Legislature and
5 allocation for the costs associated with the initial licensure and
6 extension of licensure of alcoholism or drug abuse recovery or
7 treatment facilities, the initial licensure or extension of licensure
8 of adult recovery maintenance facilities, the initial licensure and
9 extension ~~certification~~ *of licensure* of outpatient programs, and
10 followup compliance visits, a percentage of the excess funds, to
11 be determined by the department, shall be annually set aside for
12 technical assistance and training of providers.

13 SEC. 9. Section 11834.16 of the Health and Safety Code is
14 repealed.

15 SEC. 10. Section 11834.16 is added to the Health and Safety
16 Code, to read:

17 11834.16. In order to obtain a license or certification, the
18 provider shall submit to the department a complete written
19 application for extension and appropriate licensure or
20 certification fee for each subsequent two-year period 30 days
21 prior to the expiration date shown on the license or certification.
22 Failure to submit the required written application and extension
23 fee prior to the expiration date shown on the license or
24 certification shall result in automatic termination of the license or
25 certification by the operation of law.

26 SEC. 11. Section 11834.17 of the Health and Safety Code is
27 amended to read:

28 11834.17. No city, county, city and county, or district shall
29 adopt or enforce any building ordinance or local rule or
30 regulation relating to the subject of fire and life safety in
31 alcoholism and drug abuse recovery *or treatment* facilities or
32 adult recovery maintenance facilities that is more restrictive than
33 those standards adopted by the State Fire Marshal.

34 SEC. 12. Section 11834.18 of the Health and Safety Code is
35 amended to read:

36 11834.18. (a) Nothing in this chapter shall authorize the
37 imposition of rent regulations or controls for licensed alcoholism
38 or drug abuse recovery or treatment facilities or adult recovery
39 maintenance facilities.

1 (b) Licensed alcoholism and drug abuse recovery or treatment
2 facilities and adult recovery maintenance facilities shall not be
3 subject to controls on rent imposed by any state or local agency
4 or other local government or entity.

5 SEC. 13. Section 11834.20 of the Health and Safety Code is
6 amended to read:

7 11834.20. The Legislature hereby declares that it is the policy
8 of this state that each county and city shall permit and encourage
9 the development of sufficient numbers and types of alcoholism or
10 drug abuse recovery or treatment facilities and adult recovery
11 maintenance facilities as are commensurate with local need.

12 The provisions of this article apply equally to any chartered
13 city, general law city, county, city and county, district, and any
14 other local public entity.

15 For the purposes of this article, “six or fewer persons” does not
16 include the licensee, members of the licensee’s family, persons
17 employed as facility staff, or minor dependents of the resident.

18 SEC. 14. Section 11834.21 of the Health and Safety Code is
19 amended to read:

20 11834.21. Any person licensed under this chapter who
21 operates or proposes to operate an alcoholism or drug abuse
22 recovery or treatment facility or an adult recovery maintenance
23 facility, the department or other public agency authorized to
24 license such a facility, or any public or private agency that uses
25 or may use the services of the facility to place its clients, may
26 invoke the provisions of this article.

27 This section shall not be construed to prohibit any interested
28 party from bringing suit to invoke the provisions of this article.

29 SEC. 15. Section 11834.22 of the Health and Safety Code is
30 amended to read:

31 11834.22. An alcoholism or drug abuse recovery or treatment
32 facility or an adult recovery maintenance facility that serves six
33 or fewer persons shall not be subject to any business taxes, local
34 registration fees, use permit fees, or other fees to which other
35 single-family dwellings are not likewise subject. Nothing in this
36 section shall be construed to forbid the imposition of local
37 property taxes, fees for water service and garbage collection, fees
38 for inspections not prohibited by Section 11834.23, local bond
39 assessments, and other fees, charges, and assessments to which
40 other single-family dwellings are likewise subject. Neither the

1 State Fire Marshal nor any local public entity shall charge any
2 fee for enforcing fire inspection regulations pursuant to state law
3 or regulation or local ordinance, with respect to alcoholism or
4 drug abuse recovery or treatment facilities or adult recovery
5 maintenance facilities that serve six or fewer persons.

6 SEC. 16. Section 11834.23 of the Health and Safety Code is
7 amended to read:

8 11834.23. Whether or not unrelated persons are living
9 together, an alcoholism or drug abuse recovery or treatment
10 facility or an adult recovery maintenance facility that serves six
11 or fewer persons shall be considered a residential use of property
12 for the purposes of this article. In addition, the residents and
13 operators of the facility shall be considered a family for the
14 purposes of any law or zoning ordinance that relates to the
15 residential use of property pursuant to this article.

16 For the purpose of all local ordinances, an alcoholism or drug
17 abuse recovery or treatment facility or an adult recovery
18 maintenance facility that serves six or fewer persons shall not be
19 included within the definition of a boarding house, rooming
20 house, institution or home for the care of minors, the aged, or the
21 mentally infirm, foster care home, guest home, rest home,
22 sanitarium, mental hygiene home, or other similar term that
23 implies that the alcoholism or drug abuse recovery or treatment
24 home or the adult recovery maintenance facility is a business run
25 for profit or differs in any other way from a single-family
26 residence.

27 This section shall not be construed to forbid any city, county,
28 or other local public entity from placing restrictions on building
29 heights, setback, lot dimensions, or placement of signs of an
30 alcoholism or drug abuse recovery or treatment facility or an
31 adult recovery maintenance facility that serves six or fewer
32 persons as long as the restrictions are identical to those applied to
33 other single-family residences.

34 This section shall not be construed to forbid the application to
35 an alcoholism or drug abuse recovery or treatment facility or an
36 adult recovery maintenance facility of any local ordinance that
37 deals with health and safety, building standards, environmental
38 impact standards, or any other matter within the jurisdiction of a
39 local public entity. However, the ordinance shall not distinguish
40 alcoholism or drug abuse recovery or treatment facilities or adult

1 recovery maintenance facilities that serve six or fewer persons
2 from other single-family dwellings or distinguish residents of
3 alcoholism or drug abuse recovery or treatment facilities or adult
4 recovery maintenance facilities from persons who reside in other
5 single-family dwellings.

6 No conditional use permit, zoning variance, or other zoning
7 clearance shall be required of an alcoholism or drug abuse
8 recovery or treatment facility or an adult recovery maintenance
9 facility that serves six or fewer persons that is not required of a
10 single-family residence in the same zone.

11 Use of a single-family dwelling for purposes of an alcoholism
12 or drug abuse recovery *or treatment* facility or an adult recovery
13 maintenance facility serving six or fewer persons shall not
14 constitute a change of occupancy for purposes of Part 1.5
15 (commencing with Section 17910) of Division 13 or local
16 building codes. However, nothing in this section is intended to
17 supersede Section 13143 or 13143.6, to the extent those sections
18 are applicable to alcoholism or drug abuse recovery or treatment
19 facilities or adult recovery maintenance facilities serving six or
20 fewer residents.

21 SEC. 17. Section 11834.24 of the Health and Safety Code is
22 amended to read:

23 11834.24. No fire inspection clearance or other permit,
24 license, clearance, or similar authorization shall be denied to an
25 alcoholism or drug abuse recovery or treatment facility or an
26 adult recovery maintenance facility because of a failure to
27 comply with local ordinances from which the facility is exempt
28 under Section 11834.23, if the applicant otherwise qualifies for a
29 fire clearance, license, permit, or similar authorization.

30 SEC. 18. Section 11834.25 of the Health and Safety Code is
31 amended to read:

32 11834.25. (a) For the purposes of any contract, deed, or
33 covenant for the transfer of real property executed on or after
34 January 1, 1979, an alcoholism or drug abuse recovery or
35 treatment facility that serves six or fewer persons shall be
36 considered a residential use of property and a use of property by
37 a single family, notwithstanding any disclaimers to the contrary.

38 (b) For the purposes of any contract, deed, or covenant for the
39 transfer of real property executed on or after January 1, 2006, an
40 adult recovery maintenance facility that serves six or fewer

1 persons shall be considered a residential use of property and a
2 use of property by a single family, notwithstanding any
3 disclaimers to the contrary.

4 SEC. 19. Section 11834.26 of the Health and Safety Code is
5 amended to read:

6 11834.26. (a) An alcoholism or drug abuse recovery or
7 treatment facility shall provide at least one of the following
8 nonmedical services:

9 (1) Recovery services.

10 (2) Treatment services.

11 (3) Detoxification services.

12 (b) The department shall adopt regulations requiring records
13 and procedures that are appropriate for each of the services
14 specified in subdivision (a). The records and procedures may
15 include all of the following:

16 (1) Admission criteria.

17 (2) Intake process.

18 (3) Assessments.

19 (4) Recovery, treatment, or detoxification planning.

20 (5) Referral.

21 (6) Documentation of provision of recovery, treatment, or
22 detoxification services.

23 (7) Discharge and continuing care planning.

24 (8) Indicators of recovery, treatment, or detoxification
25 outcomes.

26 (c) In the development of regulations implementing this
27 section, the written record requirements shall be modified or
28 adapted for social model programs.

29 (d) An adult recovery maintenance facility shall provide, but
30 not be limited to providing, any of the following recovery
31 maintenance services:

32 (1) Aftercare.

33 (2) Referral to community resources.

34 (3) Referral to offsite certified alcoholism or other drug
35 *recovery or* treatment services when required.

36 (4) Documentation on progress made or services received
37 from referral agencies.

38 (5) Participation in self-help groups on or off premises.

1 (e) The adult recovery maintenance facility may require or
2 provide drug and alcohol testing and self-help groups on or off
3 the premises.

4 (f) The adult recovery maintenance facility shall maintain
5 records in order to document the services provided.

6 SEC. 20. Section 11834.30 of the Health and Safety Code is
7 amended to read:

8 11834.30. (a) No person, firm, partnership, association,
9 corporation, or local governmental entity shall operate, establish,
10 manage, conduct, or maintain an alcoholism or drug abuse
11 recovery or treatment facility or an adult recovery maintenance
12 facility to provide recovery, treatment, detoxification, or
13 recovery maintenance services within this state without first
14 obtaining a current valid license issued pursuant to this chapter.

15 (b) No person, firm, partnership, association, corporation, or
16 local governmental entity shall operate, establish, manage,
17 conduct, or maintain an adult recovery maintenance facility to
18 provide recovery maintenance services within this state without
19 first obtaining a current valid license issued pursuant to this
20 chapter.

21 (c) Any facility that is operated primarily for the purpose of
22 providing alcoholism or drug abuse recovery or treatment
23 services or requires clients to obtain these services and requires
24 supervision shall be licensed.

25 (d) Any provider of both an alcoholism and drug abuse
26 recovery or treatment services facility and an adult recovery
27 maintenance facility shall hold a separate license for each
28 facility.

29 SEC. 21. Section 11834.31 of the Health and Safety Code is
30 amended to read:

31 11834.31. If a facility is alleged to be in violation of Section
32 11834.30, the department shall conduct a site visit to investigate
33 the allegation. If the department's employee or agent finds
34 evidence that the facility is providing alcoholism or drug abuse
35 recovery, treatment, detoxification, or recovery maintenance
36 services without a license, the employee or agent shall take the
37 following actions:

38 (a) Submit the findings of the investigation to the department.

(b) Upon departmental authorization, issue a written notice to the facility stating that the facility is operating in violation of Section 11834.30. The notice shall include all of the following:

(1) The date by which the facility shall cease providing services.

(2) Notice that the department will assess against the facility a civil penalty of two hundred dollars (\$200) per day for every day the facility continues to provide services beyond the date specified in the notice.

(3) Notice that the case will be referred for civil proceedings pursuant to Section 11834.32 in the event the facility continues to provide services beyond the date specified in the notice.

(c) Inform the facility of the licensing requirements of this chapter.

SEC. 22. Section 11834.32 of the Health and Safety Code is amended to read:

11834.32. (a) The director may bring an action to enjoin the violation of Section 11834.30 in the superior court in and for the county in which the violation occurred. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss.

(b) With respect to any and all actions brought pursuant to this section alleging actual violation of Section 11834.30, the court shall, if it finds the allegations to be true, issue its order enjoining the alcoholism or drug abuse recovery or treatment facility or the adult recovery maintenance facility from continuance of the violation.

SEC. 23. Section 11834.36 of the Health and Safety Code is amended to read:

11834.36. (a) The director may suspend or revoke any license or certification issued under this chapter, or deny an application for licensure or certification, for extension of the licensing or certification period, or to modify the terms and conditions of a license or certification, upon any of the following grounds and in the manner provided in this chapter:

1 (1) Violation by the licensee or certified provider of any
2 provision of this chapter or regulations adopted pursuant to this
3 chapter.

4 (2) Repeated violation by the licensee or certified provider of
5 any of the provisions of this chapter or regulations adopted
6 pursuant to this chapter.

7 (3) Aiding, abetting, or permitting the violation of, or any
8 repeated violation of, any of the provisions described in
9 paragraph (1) or (2).

10 (4) Conduct in the operation of an alcoholism or drug abuse
11 recovery or treatment facility or an adult recovery maintenance
12 facility that is inimical to the health, morals, welfare, or safety of
13 either an individual in, or receiving services from, the facility or
14 to the people of the State of California.

15 (5) Misrepresentation of any material fact in obtaining the
16 alcoholism or drug abuse recovery or treatment facility license or
17 the adult recovery maintenance facility license, or
18 misrepresentation of any material fact in obtaining certification.

19 (6) Failure to pay any civil penalties assessed by the
20 department.

21 (b) The director may temporarily suspend any license prior to
22 any hearing when, in the opinion of the director, the action is
23 necessary to protect residents of the alcoholism or drug abuse
24 recovery or treatment facility or the adult recovery maintenance
25 facility from physical or mental abuse, abandonment, or any
26 other substantial threat to health or safety. The director shall
27 notify the licensee of the temporary suspension and the effective
28 date of the temporary suspension and at the same time shall serve
29 the provider with an accusation. Upon receipt of a notice of
30 defense to the accusation ~~by~~ *from* the licensee, the director shall,
31 within 15 days, set the matter for hearing, and the hearing shall
32 be held as soon as possible. The temporary suspension shall
33 remain in effect until the time the hearing is completed and the
34 director has made a final determination on the merits. However,
35 the temporary suspension shall be deemed vacated if the director
36 fails to make a final determination on the merits within 30 days
37 after the department receives the proposed decision from the
38 Office of Administrative Hearings.

39 SEC. 24. Section 11834.50 of the Health and Safety Code is
40 amended to read:

1 11834.50. The department shall adopt regulations to
2 implement this chapter in accordance with the purposes required
3 by Section 11835. These regulations shall be adopted only after
4 consultation with appropriate groups affected by the proposed
5 regulations. The regulations shall include, but not be limited to,
6 all of the following:

7 (a) Provision for a formal appeal process for the denial,
8 suspension, or revocation of a license or certification.

9 (b) Establishment of requirements for compliance, procedures
10 for issuance of deficiency notices and civil penalties for
11 noncompliance.

12 (c) Provision for the issuance of a waiver for an alcoholism or
13 drug abuse recovery or treatment facility to serve not more than
14 three adolescents, or 10 percent of the total licensed capacity,
15 whichever is less, age 14 years and older, when a need exists and
16 services specific to adolescents are otherwise unavailable. The
17 regulations shall specify the procedures and criteria for granting
18 the waiver. The procedures shall include, but not be limited to,
19 criminal record reviews and fingerprinting.

20 (d) Establishment of the elements and minimum requirements
21 for recovery, treatment, detoxification, and recovery maintenance
22 services.

23 (e) Provision for an expedited process for reviewing an
24 application for licensure when a license is terminated pursuant to
25 subdivision (c) of Section 11834.40.